

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 26TH OCTOBER 2007 / 4TH KARTHIKA 1929

WP(C).No. 8776 of 2007(T)

PETITIONER:

**K.K.ANIL KUMAR,
KARATTUPARAMBIL HOUSE, KAIPPULLY,
ARIMBUR P.O., TRICHUR DISTRICT.**

**BY ADV. SRI.P.P.JACOB
SRI.B.MANIMOHAN
SMT.V.H.JASMINE**

RESPONDENTS:

**1. KERALA STATE HOUSING BOARD,
SANTHI NAGAR, THIRUVANANTHAPURAM-1
REP. BY ITS SECRETARY.**

**2. THE REGIONAL ENGINEER,
TRIVANDRUM HOUSING UNIT,
K.S.H.B., SANTHINAGAR,
THIRUVANANTHAPURAM-1.**

**ADDL.R3. K.K.SAJITH KUMAR,
KARATTUPARAMBIL HOUSE,
KIZHUPPILLYKKARA P.O,
(VIA) KATTUR, TRICHUR 680704.**

(ADDL.R3 IMPEADED AS PER ORDER DT.20.7.07 IN IA 9753/07.)

BY ADV. POOVAPPALLY M.RAMACHANDRAN NAIR,SC.KSHB

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
26/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE PHOTOCOPY OF THE ALLOTMENT LETTER NO.EA1 UR FLATS/MF4-202 DT.31.7.1980 OF DEPUTY SECRETARY OF FIRST RESPONDENT.

EXT.P2: TRUE PHOTOCOPY OF THE WILL NO.47/98 OF KATTUR SUB REGISTRAR OFFICE ANNEXING THE CANCELLED WILL OF 1994 ALSO.

EXT.P3: TRUE PHOTOCOPY OF THE DEATH CERTIFICATE OF SRI.K.K.KUMARAN.

EXT.P4: TRUE PHOTOCOPY OF THE LETTER DT.13.10.2004 BY THE PETITIONER TO THE REGIONAL ENGINEER, KSHB, TRIVANDRUM.

EXT.P5: TRUE PHOTOCOPY OF THE NOTARISED AFFIDAVIT OF THE PETITIONER DT.8.10.04.

EXT.P6: TRUE PHOTOCOPY OF THE LETTER DT.27.12.04 ISSUED BY THE PETITIONER TO THE SECRETARY, K.S.H.B. TRIVANDRUM.

EXT.P7: TRUE PHOTOCOPY OF THE COMMUNICATION VIDE NO.E2/MF4-202/VRN DT.24.12.2004 ISSUED BY THE REGIONAL ENGINEER TO THE PETITIONER.

EXT.P8: TRUE PHOTOCOPY OF THE LETTER DT. 5.4.05 ISSUED BY THE ADMINISTRATIVE OFFICER, K.S.H.B.

EXT.P9: TRUE PHOTOCOPY OF THE CERTIFIED COPY OF WILL NO;47/98 ON 25.5.05.

EXT.P10: TRUE PHOTOCOPY OF THE COMMUNICATION DT.5.1.2007 ISSUED BY THE TAHSILDAR, TRISSUR TO THE PETITIONER.

EXT.P11: TRUE PHOTOCOPY OF THE LAWYER NOTICE DT.12.2.2007.

EXT.P12: TRUE PHOTOCOPY OF THE CERTIFIED COPY OF SALE DEED NO.894/06 DT.19.5.06 OF S.R.O.KATTUR.

EXTS. OF R1

EXT.R1(a): TRUE COPY OF THE LETTER DT.29.5.03 SENT BY K.K.SAJIT KUMAR TO THE SECRETARY, K.S.H.B.

EXT.R1(b): TRUE COPY OF LETTER DT 6.4.04 SENT BY -DO- TO -DO-

EXT.R1(c): TRUE COPY OF LETTER DT.29.7.05 SENT BY -DO- TO -DO-

WPC NO.8776/07.

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**EXT.R1(d): TRUE COPY OF LETTER DT.21.6.05 SENT BY -DO- TO CHAIRMAN,
K.S.H.B.**

EXT.R1(e): TRUE COPY OF LETTER DT.4.3.07 SENT BY -DO- TO -DO-

//TRUE COPY//

ANTONY DOMINIC, J.
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W.P.(C) NO. 8776 OF 2007 T
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Dated this the 26th day of October, 2007

J U D G M E N T

The prayer made in this writ petition is for directing the respondents to transfer flat No.MF4-202 of Vrindavan Housing Accomodation Scheme, Pattom, Thiruvananthapuram to the petitioner without further delay.

2. Petitioner's contention is that the flat in question was originally allotted to his father, who is now no more. His father has executed Ext.P2, a Will registered as document No.47/98. According to the petitioner, in terms of Ext.P2 Will, the flat in question has devolved on him. It is on the strength of Ext.P2 that the petitioner sought transfer of the flat in his favour. However, the same has not been considered by the respondents on the basis that they have received certain complaints from another legal heir of the deceased.

3. The only reason stated in the counter affidavit of the respondents is also that they have received such complaints

against the transfer and the genuineness of the Will. The respondent would also say that on receipt of the complaints, they had called upon the petitioner to produce the legal heir ship certificate and that the petitioner did not comply with the said requirement.

4. In my view, there is no justification for the delay at the hands of the respondents. The petitioner has approached the respondent with a valid registered Will, which shows that the flat in question has devolved on him. While considering such request of the petitioner, according to the respondents, if there is a complaint against the transfer, in fairness, respondents should have called upon the complainant to sustain the claim by producing documents in support of their contentions. This has not been done and on the other hand the request of the petitioner remains unattended even now. Further, if genuineness of the Will is in dispute, that is a matter to be resolved through a Civil court. As at present, no such proceedings are shown to be pending.

In view of the above, I dispose of this writ petition directing

that the respondents shall consider the request of the petitioner for transfer of the flat mentioned above in his favour. While doing so, it will be open to the respondents to issue notice to those who have lodged complaints against the transfer of flat as requested by the petitioner. The enquiry in this behalf shall be completed within six weeks of receipt of a copy of this judgment. Depending upon the outcome of the enquiry, consequential orders should also be passed.

ANTONY DOMINIC, JUDGE.

Rp